

**IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF FREMONT**

STATE OF IDAHO

Plaintiff,

v.

LORI NORENE VALLOW aka LORI
NORENE VALLOW DAYBELL,

Defendant.

Case No. CR22-21-1624

ORDER

ON CROSS-MOTIONS IN LIMINE

Pending before the Court are cross-motions in limine. Inasmuch as the motions are interrelated, the Court, after full consideration of the record, the arguments of counsel, and relevant legal authority issues the following consolidated order on the motions in limine.

I. FACTS AND PROCEEDINGS¹

On January 27th, 2023, the State of Idaho filed a MOTION IN LIMINE ON MENTAL HEALTH EVIDENCE. On February 2, 2023, Vallow Daybell filed an OBJECTION TO STATE'S MOTION RE: MENTAL HEALTH EVIDENCE. The Court called a hearing on the State's motion on February 23, 2023. During the hearing the parties argued the motion and counsel for Vallow Daybell made an oral motion to preclude a state-witness, Michael Welner, from testifying during the State's case-in-chief. The Court heard argument on the oral motion, and the State's motion was GRANTED in part on the issue of precluding Vallow Daybell from using an expert on mental health pursuant to the strictures of Idaho Code Section 18-207(4). The Court took the issue of precluding Welner from testifying under advisement. While the decision was pending, on March 5, 2023, Vallow Daybell filed a MOTION IN LIMINE TO EXCLUDE LATE-DISCLOSED EVIDENCE. The State filed an

¹ The full factual history is not set forth herein.

OBJECTION to the Vallow Daybell's motion in limine. The Court heard the parties in argument during a hearing on March 15, 2023.

II. STANDARD OF REVIEW

Trial courts have broad discretion when ruling on a motion in limine so we review the district court's decision to grant or deny a motion in limine for abuse of discretion." *Cramer v. Slater*, 146 Idaho 868, 878, 204 P.3d 508, 518 (2009) (quoting *Puckett v. Verska*, 144 Idaho 161, 167, 158 P.3d 937, 943 (2007)). "A trial court does not abuse its discretion if it (1) recognizes the issue as one of discretion, (2) acts within the boundaries of its discretion and applies the applicable legal standards, and (3) reaches the decision through an exercise of reason." *State v. Guess*, 154 Idaho 521, 528, 300 P.3d 53, 60 (2013) (quoting *Johannsen v. Utterbeck*, 146 Idaho 423, 429, 196 P.3d 341, 347 (2008)). The Court freely reviews questions of law. *State v. Meister*, 148 Idaho 236, 239, 220 P.3d 1055, 1058 (2009).

State v. Richardson, 156 Idaho 524, 527, 328 P.3d 504, 507 (2014).

III. ANALYSIS

a. State's motion in limine.

As stated above, the State seeks an order precluding Vallow Daybell from raising conditions of mental health at trial because the deadline for Vallow Daybell to raise any issue of mental condition and to call experts concerning mental conditions was at least ninety (90) days in advance of trial. *See* I.C. 18-207(4). Vallow Daybell did not object, per se, to an order but requested that given a ruling that Vallow Daybell would not be permitted to introduce an expert to testify on a condition of mental health during a guilt phase of the trial, that the State be barred from calling Michael Welner to testify.

Therefore, the Court GRANTS the State's motion in limine to prevent Vallow Daybell from introducing evidence of a mental condition in contravention of Idaho Code Section 18-207(4); and upon representation from the State that it does not plan to call Welner during its case-

in-chief, and having considered the rationale argued by the Defense that absent evidence of a mental condition being presented by the Defense, Welner's testimony would be irrelevant, the Court also GRANTS Vallow Daybell's oral motion to preclude the State from calling Welner to testify. However, should Vallow Daybell open the door and introduce evidence on the issue of a mental condition within the scope of Welner's expertise, the State would be permitted to call Welner to testify.

b. Vallow Daybell's motion in limine to preclude the introduction of late-disclosed evidence.

On March 5, 2023, Vallow Daybell filed a motion in limine seeking an order from the Court to preclude permitting the State to present all of the evidence contained in its Thirteenth Supplemental Discovery Disclosure, filed February 27, 2023, at 4:07 p.m., arguing that the discovery was both late and so substantial that the Defense was irreparably hindered in being prepared for trial as a result of the discovery "dump."

The State objected and provided clarification about much of the information disclosed in the Thirteenth Supplemental Discovery Disclosure.

In response, Vallow Daybell filed a Reponse and attached an AFFIDAVIT OF MARY C. GOODY, the mitigation specialist to Vallow Daybell's defense team.

The Court heard the parties in argument on March 15, 2023, and upon consideration of other pending motions, the Court, in an oral ruling given March 21, 2023, struck the death penalty as a sentencing option from this case and instructed counsel that a decision on the motions in limine would be issued in light of that ruling.

